

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Corbett Analyst: Marion Mann DeJong Bill Number: AB 2596
Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 02/25/2000
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Manufacturers' Investment Credit/Allows Carryover Until Credit Is Exhausted

SUMMARY

This bill would modify the Manufacturers' Investment Credit (MIC) to allow unused credit carryovers to be carried forward indefinitely.

EFFECTIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and would specifically apply only to taxable or income years beginning on or after January 1, 2000.

LEGISLATIVE HISTORY

SB 671 (Ch. 881, Stats 1993) added the MIC to the Revenue and Taxation Code. **SB 676 (Ch. 751, Stats. 1994)** made clarifying changes to the MIC. **SB 975 (Ch. 91, Stats. 1995)** was a code maintenance bill; it made technical changes to the MIC. **SB 38 (Ch. 954, Stats. 1996)** expanded the MIC by: (1) adding semiconductor equipment manufacturing and certain aerospace manufacturing to the definition of "qualified taxpayer" for the special purpose building provision; and (2) adding taxpayers engaged in certain biopharmaceutical and biotech activities to the definition of "small business." **SB 1106 (Ch. 604, Stats. 1997)** was a clean-up bill for SB 38; it made technical changes to the MIC. **AB 2798 (Ch. 323, Stats 1998)** extended the MIC to manufacturers of custom or prepackaged computer software. **SB 1229 (Ch. 987, Stats. 1999)** made clarifying changes needed as a result of AB 2798.

AB 2461 (2000) would make four changes to the MIC for taxable or income years beginning on or after January 1, 2000, including a change to allow unused credit carryovers to be carried forward indefinitely.

AB 648 (1997/1998) would have allowed unused credit carryovers to be carried forward indefinitely. AB 648 was held in the Assembly Appropriations Committee.

SPECIFIC FINDINGS

Existing state law allows qualified taxpayers a credit, known as the MIC, equal to 6% of the amount paid or incurred after January 1, 1994, for qualified property that is placed in service in California. Unused MIC carryovers may be carried forward for a maximum of eight years. For small businesses, this carryover period is extended to ten years.

Board Position:

_____ S	_____ NA	_____ NP
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_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Alan Hunter for GHG

3/20/00

This bill would change the MIC carryover provision from an eight or ten-year limited carryover to an unlimited carryover. Thus, for taxable or income years beginning on or after January 1, 2000, a taxpayer that is unable to use the entire MIC credit could carry over the credit indefinitely. However, carryovers from taxable or income years prior to January 1, 2000, would continue to be limited to the carryover period applicable in the taxable or income year in which the carryover was first generated.

Policy Considerations

Recently, the policy regarding credit carryover provisions has moved from unlimited carryovers to limited carryovers, as most carryovers that will be used are used within eight years. This bill would reverse that policy.

Implementation Considerations

MIC carryovers from taxable or income years beginning before January 1, 2000, would continue to be limited. However, taxpayers could misunderstand this law and try to claim credit carryovers that have expired. This may lead to disputes between taxpayers and the department. Amendments 4 and 8 would clarify that carryovers of the MIC from taxable or income years beginning before January 1, 2000, would continue to be limited.

Technical Considerations

Amendments 1 and 5 would remove the definition of small business. The small business definition is used only for purposes of determining the length of the credit carryover period (8 or 10 years) and would no longer be necessary.

Amendments 2, 3, 6 and 7 would remove the phrase "the amendments made by the act adding this subdivision shall be operative" and insert the correct citation for the specific laws that changed the MIC.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

It is estimated that this bill would result in revenue losses in the \$5 to \$10 million range annually beginning in fiscal year 2008-09.

The credit use rates taken from the microsimulation model of California tax returns were applied to derive the aggregate credit use.

BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2596
As Introduced February 25, 2000

AMENDMENT 1

On page 10, strikeout lines 6 through 22, inclusive.

AMENDMENT 2

On page 14, modify lines 39 and 40 as follows:

(j) The amendments made by ~~the act adding this subdivision~~ Chapter 954 of the Statutes of 1996 shall be operative for taxable years beginning

AMENDMENT 3

On page 15, modify lines 3 and 4 as follows:

(k) The amendments made by ~~the act adding this subdivision~~ Chapter 323 of the Statutes of 1998 shall be operative for taxable years beginning

AMENDMENT 4

On page 15, line 7, strikeout "only to" and insert:

to carryovers arising from credits allowed in

AMENDMENT 5

On page 23, strikeout lines 13 through 29, inclusive.

AMENDMENT 6

On page 28, modify lines 5 and 6 as follows:

(j) The amendments made by ~~the act adding this subdivision~~ Chapter 954 of the Statutes of 1996 shall be operative for income years beginning

AMENDMENT 7

On page 28, modify lines 9 and 10 as follows:

(k) The amendments made by ~~the act adding this subdivision~~ Chapter 323 of the Statutes of 1998 shall be operative for income years beginning

AMENDMENT 8

On page 28, line 13, strikeout "only to" and insert:

to carryovers arising from credits allowed in